

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GHAZI ALMASHLEH,)	
)	
Plaintiff,)	
v.)	Civil Action No. 06-106 Erie
)	
UNITED STATES OF AMERICA,)	
et al.,)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff's civil rights complaint was received by the Clerk of Court on May 8, 2006 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's report and recommendation, filed on April 19, 2007 [31], recommends that the Defendants' partial motion to dismiss or, in the alternative, partial motion for summary judgment [25] be granted. The parties were allowed ten (10) days from the date of service to file objections. Plaintiff's objections [38] were filed on May 30, 2007.

After de novo review of the Complaint and the documents in the case, together with the Report and Recommendation and Plaintiff's objections thereto, the following order is entered:

AND NOW, this 21st day of August, 2007, IT IS HEREBY ORDERED that the Defendants' partial motion to dismiss or, in the alternative, partial motion for summary judgment [25] be, and hereby is, GRANTED, and the following claims are dismissed from the case:

1. Plaintiff's Eighth Amendment *Bivens* claims against the individual Defendants;

2. Plaintiff's FTCA claims against the individual Defendants; and
3. Plaintiff's FTCA claim against the United States to the extent that Plaintiff claims medical negligence on the part of Defendant Welch.

As a result of the foregoing, the only claims still remaining in the case are: (i) Plaintiff's FTCA claim against the United States, excluding Plaintiff's claims of medical negligence against Defendant Welch; and (ii) Plaintiff's Fifth Amendment Due Process claim against Defendant Sherman.

The report and recommendation of Chief Magistrate Judge Baxter dated April 19, 2007 [31] is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: all parties of record
Chief U.S. Magistrate Judge Susan Paradise Baxter